

REMARKS/ARGUMENTS

Claims 1, 3-21 and 23-33 are currently pending in the application. Claims 21 and 23-25 stand allowed. Claims 1, 3-21 and 26-33 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

Applicants respectfully request reconsideration of the application in light of the foregoing claim amendments and the following remarks.

Applicants have amended the independent claims, except for claim 17, to address the rejection and, therefore, request withdrawal of the instant rejections. For example, Applicants have amended claims 1 and 6 to include “monitoring, *by a network device*, a data flow associated with a host relative to at least one behavioral attribute.” Applicants have amended claim 20 to include “monitoring, by a network device, the data flows associated with a host relative to at least one application behavior model corresponding to a traffic class;” and “matching, by the network device, at least one of the data flows associated with the host to a traffic class.” Claims 26, 29 and 33 have been similarly amended. As such, the claims indicate that performance of at least certain operations are performed by a “network device,” which addresses the Examiner’s stated concern that the method claims are “broad enough that the claim[s] could be completely performed mentally, verbally or without a machine.” Furthermore, the Examiner does not specifically address claim 17, which clearly involves a transformation. In particular, Applicants respectfully point out that the recited operations by “configuring a network traffic monitoring device” result in the transformation of the device to be able to classify traffic based on modeled behaviors of network applications. Accordingly, claim 17 and the amended claims noted above recite statutory subject matter.

Appl. No.: 10/720,329
Amdt. Dated August 7, 2009
Response to Office Action of June 1, 2009

CONCLUSION

In light of the foregoing, Applicants believe that all currently pending claims are presently in condition for allowance. Applicants respectfully request a timely Notice of Allowance be issued in this case.

If a telephone conference would advance prosecution of this Application, the Examiner may call Mark J. Spolyar, Attorney for Applicant, at 650-739-7511.

The Commissioner is hereby authorized to charge the Request for continued examination (RCE) fee 37 CFR §1.17(e) of \$810.00 and any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts LLP.

Respectfully submitted,
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